



DELAWARE NUTRIENT MANAGEMENT

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The Delaware Nutrient Management Commission Minutes of the Full Commission Meeting Held November 14, 2006

In attendance:

<i>Commission Members Present</i>	<i>Others Present</i>	
D. Baker – Vice Chair	M. Cooke, DAG	D. Holtz
M. Adkins	K. Foskey	K. Bunting-Howarth
R. Baldwin	A. Parcels	B. Messick
K. Blessing	B. Coleman	K. C. Donnelly
A. Johnson	S. Hollenbeck	M. Brown
T. Keen	P. Diehl	D. Absher
C. Larimore	J. Bauer	A. Garey
E. Lewandowski	S. Vren	T. Bobola
J. Manchester	C. Roberts	S. Kepfer
B. O'Neill	B. Palmer	D. Hill
C. Solberg	K. Holtz	R. Thompson
R. Sterling	C. Kinsley	K. W. Johnson
C. West	M. Matesik	T. Garrahan
	K. Rankine	S. Wharton
		J. Baxter
<i>Commission Members Absent</i>	<i>Ex-officios Present</i>	H. Johnson
B. Vanderwende	W. Rohrer	R. Hill
	M. Scuse	L. Hill
	J. A. Hughes	E. Jestice
	G. Llewellyn	

This meeting was properly notified and posted as required by 29 Del. C. §10004 et al.

Call to Order/Welcome:

Vice-Chairman D. Baker called the meeting to order at 7:00 p.m. and welcomed everyone in attendance.

Approval of Minutes:

C. Larimore motioned to approve the minutes of the October 10, 2006 Full Commission meeting.
B. O'Neill seconded the motion, which passed unanimously.

Discussion and Action Items:

Review and act on modifications to certification regulation:

B. Rohrer summarized Public Hearing transcripts as well as proposed regulation changes. E. Lewandowski summarized the November 6 Rules and Regulations Subcommittee meeting. He also read the proposed regulation changes into the record.

E. Lewandowski motioned to adopt full certification changes in regulations as submitted in written form.

M. Cooke cautioned the Commission that according to APA, the Commission must determine if those changes are deemed to be substantive. If they are deemed to be substantive, the whole process must begin again, including new public hearings. D. Baker stated that the Subcommittee determined that changes made were not substantive. He asked for comments. A general discussion ensued regarding the striking of "organic and inorganic fertilizer." The discussion then turned to "43 lbs. per acre."

E. Lewandowski withdrew the motion to adopt full certification changes in regulation as submitted in written form as submitted.

T. Keen motioned to change the language to 70-100 lbs. of nitrogen if applicator can justify on low lying and marginal ground.

C. West seconded the motion.

D. Baker asked how do you define low lying and marginal? B. Rohrer stated that if rates are stricken, definition is not an issue. Another general discussion ensued regarding those two topics. The discussion was quite lengthy.

T. Keen withdrew his motion to change language to 70-100 lbs. of nitrogen if applicator can justify on low lying and marginal ground.

C. Solberg added that he felt removing rates would be substantive change. J. Manchester stated that removing organic and inorganic would be substantive change.

C. Larimore motioned to take the regulations back to committee.

T. Keen seconded the motion, which passed unanimously.

E. Lewandowski advised that any Commission members interested in the regulation changes should attend the next Rules and Regulations Subcommittee meeting in order to prevent tabling in the future. B. O'Neill stated that the Commission needs more public attendance as well.

Review and act on final modifications to mandate regulation: B. Rohrer recommended that the Commission does not act on this agenda topic until the certification regulation is acted upon.

C. Larimore motioned to table action on final modifications to mandate regulation.

B. O'Neill seconded the motion, which passed unanimously.

Perdue and EPA MOU Update: B. Rohrer explained that John Chlada was to present information on behalf of Perdue, but is no longer employed there. Perdue has offered to come to the December Full Commission meeting to provide an update on the topic. There was some discussion about the topic. B. Rohrer then summarized the MOU. There was a spirited discussion about this topic, with comments such as: ...the implication to all contract growers ...the EPA's involvement and accessibility to Delaware farms, and ...the agreement will duplicate many efforts already implemented in Delaware and which may dilute the intent. Some Commissioners felt that the EPA will go after stockpiles and pick apart model farms.

C. Larimore motioned to send a letter to Jim Perdue (wherever he is) to pull out of the agreement.

C. West seconded the motion.

J. Hughes suggested an analysis of the components of the Perdue-EPA MOU using Delaware law. M. Scuse added that the MOU does not recognize the measures that the DNMC have put in place, nor those of the Maryland Department of Agriculture. C. Larimore added that the problem is not in Delaware, yet they will come into Delaware and trash our work. It was suggested that J. Hughes write the letter; he stated that if he wrote the letter, he would "...meticulously analyze what (Perdue-EPA) is trying to do and what (DNMC) has already done..." He also stated that he would draft the letter, but the Commission must stand behind it. A group was formed to assist with the letter. A deadline of 10 days was established.

C. Larimore motioned that J. Hughes draft the letter and that a committee be formed to assist.

B. O'Neill seconded the motion, which carried unanimously.

D. Baker stated that the DNMC is already doing a lot of this and that we would have preferred that Perdue come before the Commission prior to signing such an agreement.

C. Larimore motioned to reconsider a freeze on Perdue's relocation funds.

C. West seconded the motion.

D. Baker called point of order.

C. Larimore withdrew the motion to reconsider a freeze on Perdue's relocation funds.

Discuss Nutrient Management Relocation Funding Structure

B. Rohrer summarized a funding structure draft report dated 11-08-06 (part of this public record). He stated by the fiscal year 2008, the DNMC needs to look at alternative funding sources. There is a projected shortfall of \$200,000 for the relocation program. He discussed past meetings with the poultry companies to address alternative use projects and/or contribute funding to the Relocation Program.

He suggested that the major poultry companies in Delaware be given three options:

1. Develop an alternative use program,
2. Relocate litters using company funding sources, or
3. Help the DNMC pay for the relocation of excess litters.

He also asked that the DNMC meet with the three poultry companies to further discuss the future of the relocation program. C. Larimore noted that Perdue has moved toward once-a-year cleanouts, and that this practice will drastically affect the numbers projected. General discussion of this topic followed. D. Baker added that he felt (asking poultry companies share some of the expense) is "fundamentally a good concept." B. Rohrer pointed out that other states do not pay the entire cost associated with relocation efforts.

C. Larimore motioned that authorization (be given) to B. Rohrer to talk to poultry companies on Commissioner's behalf to secure more funding.

C. Solberg seconded the motion, which carried unanimously.

Review and act on formal complaint dated 10/23/06

Formal complaint dated 10/23/06 was read into record by B. Rohrer (protecting the name of the individual by inserting the word "subject" in place of complainant's name). Further, he summarized the timeline of events as they pertained to the complaint.

C. Larimore motioned to take matter to hearing and that D. Baker be the hearing officer.

B. O'Neill seconded the motion, which carried unanimously.

A small discussion ensued regarding nitrogen contamination in water and the sources causing it. It was pointed out that the major source of nitrogen in Rehoboth Bay is coming from land, not treatment plants, etc.

Subcommittee Reports: NONE

Administrator's Report: *Refer to the attached Administrator's Report*

B. Rohrer stated that the last CAFO farm visit has been completed, and summarized the November CAFO newsletter, explaining that it will be going out this month to certification holders, poultry companies, and other members of the agricultural community. He also introduced the new non-Ag Best Management Practices booklet aimed at Lawn Care and turf industries.

Public Comments: Keith W. Johnson stated: *"I would like to thank the Commission for their strong stance in writing a letter (to Perdue)..."*

Next Meeting:

The next meeting of the Full Commission is scheduled for December 12, 2006 at 7:00 pm.

Adjournment:

Vice-Chairman D. Baker adjourned the meeting at 8:45 p.m.

Approved,

W. Vanderwende, Chairman
WRR/psd